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SUMMARY OF CONFERENCE AGREEMENT ON RECONCILIATION PROVISIONS WITHIN THE JURISDICTION OF THE COMMITTEE ON WAYS AND MEANS

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Prepared for use of the Committee on Ways and Means by its staff

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PREFACE

This document contains a summary of the agreements reached by the managers on the part of the House and the Senate of major provisions within the jurisdiction of the Committee on Ways and Means. It is printed for the convenient use of Members, staff, and the public, and should not be construed as an official record reflecting the conference agreement.

SUMMARY OF RECONCILIATION PROVISIONS WITHIN THE JURISDICTION OF THE COMMITTEE ON WAYS AND MEANS

I. PROVISIONS RELATING TO SOCIAL SECURITY (OASDI) AND RAILROAD RETIREMENT

A. Extend FICA Tax to Certain Earnings

The conference agreement approves several items to extend FICA taxes and social security coverage to forms of employment currently exempt, effective January 1, 1988:

Armed Services reservists -- Extends FICA taxes to "inactive duty training" (generally weekend training drill sessions).

Agricultural workers -- Modifies FICA tax treatment of agricultural labor such that: (a) any remuneration for agricultural labor paid by an employer to an employee would constitute wages if the employer pays more than $2,500 to all employees for such labor during the taxable year; (b) the $150 annual cash pay test would continue to be applied if the $2,500 annual payroll test is not met; and (c) the 20-day test would be eliminated.

Individuals aged 18-21 -- Extends FICA taxes to services performed by individuals between the ages of 18 and 21 who are employed in their parent's trade or business.

Spouses -- Extends FICA taxes to services performed by an individual in the employ of his or her spouse's trade or business.

Tips -- Extends the employer's share of FICA taxes to include all cash tips (up to the social security wage base).

B. Treatment of Group-Term Life Insurance Wages Under FICA

The conference agreement includes employer-provided group-term life insurance in wages for FICA tax purposes if such insurance were includible for gross income tax purposes, effective January 1, 1988.

C. Correction in Government Pension Offset

The conference agreement provides that Federal employees who switch from the Civil Service Retirement System (CSRS) to the Federal Employees' Retirement System (FERS)

on or after January 1, 1988 will be exempt from the government pension offset if they have 5 or more years of Federal employment covered by social security after December 31, 1987.

D. Modification of Voluntary Coverage Agreement With the State of Iowa

The conference agreement permits the State of Iowa to modify retroactively its voluntary agreement with the Secretary of Health and Human Services to validate coverage for certain police officers and fire fighters.

E. Continuation of Disability Benefits Pending Appeal

The conference agreement extends for one year the provision for continued payment of disability benefits during the administrative appeal process. This provision expires on December 31, 1988, with continued benefits last payable in July, 1989.

F. Lengthening of the Extended Period of Eligibility for Disability Benefits

The conference agreement lengthens the extended period of eligibility during which a disability beneficiary who returns to work may become automatically reentitled to benefits, from the current 15 months to 36 months. Medicare eligibility is not continued beyond the period provided under current law. The provision is effective January 1, 1988.

G. Payment of Attorneys' Fees

The conference agreement reinstates the administrative policy which permits ALJ's to authorize attorneys' fees of up to $3,000 without approval by an SSA regional office. It also prohibits the issuance or amendment of any rules concerning the payment of attorneys' fees until July 1, 1989, and calls for two simultaneous studies, one by SSA and a second by the General Accounting Office, of the fee payment process. Both studies must be submitted to Congress by July 1, 1988.

H. Treatment of Corporate Directors' Earnings

The conference agreement requires that corporate directors' earnings be treated as received when services are performed, regardless of when actually paid, for purposes of both the SECA tax and the earnings test. The provision is effective for services performed in taxable years beginning on or after January 1, 1988.

I. Increase in Railroad Retirement Tier II Tax Rate and Extension of Transfer of Revenues to Railroad Retirement Account

The conference agreement increases the railroad retirement Tier II taxes by 2.0 percentage points, effective January 1, 1988. It divides the 2.0 percentage point increase so as to increase employer contributions by 1.35 percentage points and employee contributions by .65 percentage points, respectively.

Additionally, the agreement establishes a seven-member Commission on Railroad Retirement Reform to perform a comprehensive study of alternative methods of securing the long-term viability of the railroad retirement system. The President would appoint four members, one of whom would represent rail labor, one of whom would represent rail management, one of whom would represent commuter railroads, and one of whom would represent the general public. The President Pro Tempore of the Senate and the Speaker of the House of Representatives would each appoint one public member. The Comptroller General of the United States would appoint one public member with expertise in pension matters. The Commission would submit its report and recommendations to Congress by October 1, 1989.

The conference agreement also extends for one year, until October 1, 1989, the transfer of revenue from income taxes paid on Tier II benefits from the general fund to the Railroad Retirement Account.

II. PROVISIONS RELATING TO PUBLIC ASSISTANCE AND UNEMPLOYMENT COMPENSATION

A. Aid to Families With Dependent Children Provisions

1. Fraud Control under AFDC Program

The conference agreement authorizes 75 percent Federal funding for costs of a State's fraud control program. Statutory language is added to clarify the uses of these matching funds and to require written notice of the fraud control penalties at the time of application. AFDC fraud control procedures will parallel those in use in the food stamp program.

2. Assistance to Homeless AFDC Families

The conference agreement prohibits the Department of Health and Human Services from implementing regulations proposed on December 14, 1987 which would have restricted the use of AFDC funds for homeless families.

3. Washington State Demonstration Program

The conference agreement would allow the State of Washington to conduct a demonstration of its proposed Family Independence Program.

4. New York State Demonstration Project

The conference agreement would allow the State of New York to test its child support supplement demonstration program as an alternative to the AFDC program.

B. Child Support Enforcement Provisions

1. Continuation of Child Support Enforcement Services for Families No Longer Receiving AFDC

The conference agreement requires State child support enforcement agencies to continue child support services for families no longer eligible for AFDC on the same basis and under the same conditions as other non-AFDC families, except that no application (or application fee) for services could be required.

2. Child Support Services for Certain Families Receiving Medicaid

The conference agreement requires State child support enforcement agencies to provide services to all families with an absent parent who receive Medicaid and have assigned to the State their rights to support, regardless of whether they are receiving AFDC.

3. Repeal of Child Support Revolving Fund

The conference agreement replaces the present revolving fund mechanism with a requirement that any amounts collected by IRS under the authority to collect certain child support obligations be transferred directly to the State requesting the IRS assistance.

C. Unemployment Compensation Provisions

1. Retroactive Change in Effective Date for Certain Extended Benefit Requirements

The conference agreement amends the Omnibus Reconciliation Act of 1980 retroactively to give States six additional months, until October 31, 1981, to comply with the job search requirements.

2. Self-employment Demonstration Program

The conference agreement authorizes a demonstration project under which States could continue paying unemployment benefits to unemployed persons who attempt to set up their own businesses.

3. FUTA Tax Extension

The conference agreement extends the current 0.2 percentage point surtax for 3 years, raises the ceilings in the Extended Unemployment Compensation and Federal Unemployment Accounts (as proposed by the Senate) to help avoid future debts to the general fund, and establishes interest charges on any new loans to these accounts from the general fund.

D. Supplemental Security Income Provisions

1. Permanent Extension of Disregard of Certain In-kind Assistance

The conference agreement permanently extends the mandatory SSI disregard and the optional AFDC disregard of in-kind assistance.

2. Exclusion of Real Property When it Cannot be Sold

The conference agreement excludes (and does not require the sale of) real property for so long as it cannot be sold because it is jointly owned, its sale is barred by a legal impediment, or, as determined by regulations issued by the Secretary of HHS, the owner's reasonable efforts to sell it have been unsuccessful.

3. Transfer of Assets for Less than Fair Market Value

The conference agreement requires the Secretary of HHS to issue regulations for suspending the transfer of assets rule in cases where he determines that the suspension is necessary to avoid undue hardship.

4. Exclusion of Interest in Burial Accounts

The conference agreement requires that any interest on designated burial accounts must be excluded in determining whether an individual meets the SSI resource requirements, regardless of the amount of the individual's other resources.

5. Treatment of AFDC Benefits under SSI Retrospective Accounting

The conference agreement provides that for purposes of the SSI program, certain income will be counted only in the month it is received. This provision applies to the following forms of income: AFDC, foster care, refugee cash assistance, Cuban/Haitian entrant assistance, or general and child welfare assistance provided by the Bureau of Indian Affairs.

6. Treatment of Certain Couples in Institutions

The conference agreement permits States to treat a husband and wife residing in the same Medicaid institution as a couple if doing so would prevent a reduction or termination of Medicaid benefits.

7. Extension of Deadline for Certain Widow(er)s to Apply for Medicaid

The conference agreement extends from July 1, 1987 to July 1, 1988 the deadline for applying for special Medicaid eligibility for certain disabled widows or widowers who lost eligibility for SSI and Medicaid because of the 1983 Social Security Amendments.

8. Increase in SSI Emergency Advance Payments

The conference agreement increases the allowable emergency advance payment to the maximum amount of the regular Federal SSI monthly benefit rate plus, if any, the Federally-administered State supplement.

9. Extension of Interim Assistance Reimbursement

The conference agreement permits States to receive reimbursement for interim assistance in cases where they have provided cash assistance to individuals whose SSI benefits were terminated or suspended, but who were subsequently found eligible for benefits.

10. Special Notice to Blind Recipients

The conference agreement requires the Social Security Administration to give blind SSI applicants and recipients the option to receive program notices in a form other than writing.

11. Continued SSI Benefits for Recipients of Rehabilitation Services Whose Blindness Has Ceased

The conference agreement continues SSI benefits to individuals whose blindness has ceased if they are participating in an approved vocational rehabilitation program.

12. SSI Eligibility for Individuals in Public Emergency Shelters

The conference agreement provides that an individual in a public emergency shelter may receive SSI for up to a total of 6 months in any period of 9 consecutive months beginning after December 1987.

13. Exclusion of Underpayments from Resources

The conference agreement provides that retroactive SSI and social security payments received during the two-year period beginning October 1, 1987 will be disregarded as a resource for 9 months.

14. Full Benefits for SSI Recipients Temporarily in Institutions

The conference agreement provides full SSI benefits, including State supplementary payments, for a person who enters a medical or public psychiatric institution if a physician certifies that the person's stay is not likely to exceed three months and he must continue to maintain a home to which he may return.

15. Retention of Medicaid for Certain Widow(er)s

The conference agreement would require that an individual who would otherwise qualify for SSI on the basis of disability or blindness, but beginning at age 60 qualifies for social security early aged widow's or widower's benefits and loses eligibility for SSI, nevertheless be deemed an SSI recipient for purposes of Medicaid eligibility until they become eligible for Medicare.

16. Demonstration to Assist Homeless Individuals in Obtaining SSI

The conference agreement authorizes 10 State demonstration projects to test alternative approaches to helping homeless individuals obtain SSI benefits. These projects would include testing the SSI outreach teams proposed in the House bill.

17. SSI Eligibility Requirements for Certain Aliens

No provision.

18. Increase in Personal Needs Allowance

The conference agreement increases the SSI personal needs allowance by $5 for an individual and $10 for a couple.

19. Exclusion of Death Benefits Spent on Last Illness and Burial

The conference agreement excludes from income payments occasioned by the death of another person, to the extent that the payments do not exceed the amount spent for purposes of the deceased person's last illness and burial.

E. Social Services, Child Welfare Services, and Other Provisions Relating to Children

1. Extension of Authority for Voluntary Foster Care Placements

The conference agreement permanently extends the authority for Federal matching funds for voluntarily-placed foster care children.

2. Extension of Authority to Transfer Foster Care Funds

The conference agreement extends the foster care ceilings and transfer authority through September 30, 1989.

3. Mother/Infant Foster Care

The conference agreement requires that in cases where an individual placed in foster care is the parent of a son or daughter who is in the same foster home or institution, the foster care maintenance payments for the individual shall include amounts necessary to cover costs of items provided on behalf of the son or daughter. The infant would also be deemed to be a foster care child for purposes of Medicaid eligibility or for eligibility under the adoption assistance program.

4. Increase in Funding for Title XX Block Grant

The conference agreement provides for an increase in the Title XX entitlement cap by $50 million for

fiscal year 1988; the cap reverts to $2.7 billion in 1989. The additional funds must be used for additional services and may not supplant existing State social services funds.

5. Extension of Title XX and Child Welfare Services to American Samoa

The conference agreement makes American Samoa eligible to participate in both the Title XX and child welfare services programs.

6. National Commission on Children

The conference agreement establishes a bipartisan National Commission on Children which would make recommendations regarding health of children, social and support services for children and their parents, education, income security and tax policy.

7. Boarder Babies Demonstration Projects

The conference agreement authorizes $4 million yearly for three years to fund demonstration projects to provide residential care for newborn infants whose parents abandon them to the care of hospitals.

8. Study of Children with AIDS in Foster Care

The conference agreement authorizes a study by the Department of Health and Human Services to determine the number of infants and children in the United States who have been diagnosed as having AIDS, the problems encountered by social services agencies in placing such infants and children, and the potential growth in the number of such children over the next five years.

III. PROVISIONS RELATING TO MEDICARE

A. Part A Provisions

1. Hospital Prospective Payment Rates

The conference agreement sets the FY 88 update at 1.5% for PPS hospitals in urban areas >1 million, 3.0% for PPS hospitals in rural areas, and 1.0% for other PPS hospitals; and sets the FY 89 update at market basket minus 2.0 percentage points for hospitals in urban areas >1 million, market basket minus 1.5 percentage points for rural hospitals, and market basket minus 2.5 percentage points for other

hospitals. The agreement sets the update factor at the market basket rate of increase for all PPS hospitals in FY 90 and later years.

For PPS-exempt hospitals, the agreement sets the annual increase for reporting periods beginning in FY 88, excluding the first 51 days of such periods, at 2.7 percent, and sets the annual increases for FY 89 and FY 90 equal to the projected increase in the market basket.

The agreement establishes a regional floor on payments to PPS hospitals during a three year period and requires a ProPAC analysis of hospital nonlabor costs and input prices. The agreement also reduces the indirect medical education adjustment to 7.70% and removes the existing 15 percent cap on disproportionate share hospitals. In addition, the agreement increases the disproportionate share adjustment to 25% for hospitals which qualify based upon their receiving more than 30 percent of their net revenues from public sources. The agreement requires that ProPAC analyze the desirability of adjusting the nonlabor portion of hospital payments based upon the input prices which hospitals face in purchasing goods and services.

2. Rural Hospitals

The conference agreement revises standards for including an adjacent rural county in an urban area, expands the swing bed program to rural hospitals with up to 100 beds, expands availability of payment adjustments for small and isolated rural hospitals with declining admissions, changes the definition of rural referral centers to include all rural hospitals with more than 275 beds, and authorizes $15 million per year in FY 88-90 to fund rural demonstration projects restricted to nonprofit hospitals.

3. Payments for Capital

The conference agreement reduces payments for capital costs by 12% in FY 88 effective 1/1/88 and by 15% in FY 89; requires payment for capital on a prospective basis beginning 10/1/91; and excludes capital from PPS until then.

4. Extension of Reductions Under Sequester Order

The conference agreement provides that reductions in payments under the 11/20/87 sequester order shall continue for all hospital services until 3/31/88 and for other Part A services until 12/31/87.

5. Hospital Reporting

The conference agreement requires the Secretary to create a new data base for the hospital reporting system utilizing information from hospitals with cost reporting periods beginning during the first four months of the Federal fiscal year. The agreement also requires the Secretary to conduct a two year demonstration program using a new hospital reporting format in two states.

6. Delay in Effective Date for Requiring Hospital Protocols for Organ Procurement

The conference agreement delays the date by which the Secretary must complete designation of organ procurement agencies until 3/31/88.

7. Miscellaneous and Technical Provisions Relating to Part A

The conference agreement increases the maximum civil monetary penalty for violation of Medicare requirements regarding emergency cases to $50,000; delays recoupment of any overpayments which may have been made to certain hospitals under section 1886(c) state waiver authority for one year; clarifies the section 1814(b) state waiver authority; prohibits the Secretary from making a change in policy or method regarding bad debt recognition for hospital services; increases payments for outlier cases classified in DRGs relating to burns; amends prior law regarding a miscellaneous accounting provision; requires, under certain conditions, that the Secretary determine that a pediatric hospital meets the criteria of a Medicare heart transplant facility; extends indefinitely the current waiver of certain inpatient requirements for Connecticut Hospice, Inc.; revises the appointment process for the Prospective Payment Assessment Commission; requires the Secretary to prepare a rural regulatory impact analysis for any rule or regulation that may have a significant impact on small rural hospitals; clarifies that Part A covers the inpatient hospital services of clinical psychologists; modifies Medicare's conditions of participation related to

individual's responsible for care of a Medicare patient; and clarifies that hospitals which qualify for disproportionate share status based upon the percentage of their revenues derived from State and local government sources do so based upon their net revenues.

8. Elimination of Periodic Interim Payment System (PIP) for Certain Hospitals

The conference agreement does not change current rules regarding eligibility of disproportionate share hospitals to receive periodic interim payments.

B. Part A and B Provisions

1. Payment Standards

The conference agreement requires fiscal intermediaries to hold claim for 10 days after the date of receipt during the last 3 months of FY 1988 and for 14 days during FY 1989.

2. Health Maintenance Organization (HMO) Reforms

The conference agreement broadens the use of sanctions and civil monetary penalties against HMOs and CMPs, provides for extended supplemental coverage for enrollees of an HMO which terminates its contract, and requires HMOs to notify new enrollees of the possibility that the contract will be terminated in the future. The HMO's option to have Medicare pay directly for hospital services is eliminated, while the option to deposit Medicare payments in a benefit stabilization fund is extended until 1990. The prohibition of physician incentive payments is delayed for one year, to April 1990. The waivers for social health maintenance organizations are extended, and other waivers are provided for a variety of organizations in special circumstances.

Finally, the agreement provides for new capitation demonstrations to test revisions in the rate-setting process and requires a General Accounting Office report on rate methodologies. The Administration is permitted to carry out its proposal for demonstrations of contracts with employer-related groups, subject to special restrictions.

3. Publication of Policies

The agreement includes a number of provisions to improve communications between the Secretary, fiscal

intermediaries and carriers, and providers. Significant policy changes would be required to be promulgated as regulations, and providers of home health care and other extended services would receive prompt notice of other policy decisions.

4. Coverage of the Disabled

The conference agreement provides that disabled beneficiaries who cease to receive Social Security disability insurance and who regain disability coverage after a period of employment may resume Medicare coverage without another two-year waiting period.

5. Home Health Care Quality Improvements

The conference agreement establishes new conditions of participation and new survey procedures for home health care providers. Exceptions are created to the requirement that an individual be confined to home in order to be eligible for home health care. A new procedure for appeal of determinations of eligibility for home health care or other extended care is established, along with a toll-free hotline and investigative unit for beneficiary problems. The agreement includes a demonstration of prospective payment for home health care. It also delays the Secretary's authority to make certain program changes, including requiring pre-authorization for extended care and deeming privately accredited agencies as eligible providers.

6. Other Provisions

The conference agreement also: (1) makes technical changes in the ESRD program and requires a report on the program from the Secretary; (2) clarifies that government entities are the primary payers for disabled employees who are Medicare beneficiaries; (3) delays the Secretary's plan to use administrative law judges employed by the Health Care Financing Administration, rather than those in the Social Security Administration, to hear Medicare appeals; and (4) establishes rural health medical education demonstration projects.

C. Part B

1. Sequester

The conference agreement continues the sequester through March 31, 1988. The physician payment update is delayed until April 1, 1988.

2. Physician Payments

The conference agreement provides that for the 9-month period beginning April 1, 1988, the increase in the MEI for participating physicians is 3.6 percent for primary care services and 1 percent for other physicians' services. For nonparticipating physicians, the increase is 3.1 percent for primary care services and 0.5 percent for other services.

For physicians' services furnished in 1989, the percentage increase for participating physicians is 3.0 percent for primary care services and 1.0 percent for other services. For nonparticipating physicians, the increase is 2.5 percent for primary care services and 0.5 percent for other services. The agreement provides incentive payments for primary care services furnished by physicians in a rural area or a health manpower shortage area.

3. Overpriced Procedures

The conference agreement provides for a 2-percent reduction in the prevailing charges for selected overpriced procedures beginning April 1, 1988, plus an additional sliding scale reduction for prevailing charges exceeding 85 percent of the weighted national average. In no case can the reduction under the sliding scale reduce the prevailing charge below 85 percent of the national average of the prevailing charges (as reduced by the 2 percent). The following are the procedures for which reductions are made: Coronary artery bypass surgery; total hip replacement; cataract surgery; transurethral prostatectomy; suprapubic prostatectomy; diagnostic and/or therapeutic dilation and curettage; carpal tunnel neurolysis and/or transposition; pacemaker surgery; bronchoscopy; upper gastrointestinal endoscopy; knee arthroscopy; and knee arthroplasty.

The conference agreement also limits Medicare reimbursement for ophthalmic ultrasound procedures to 5 percent of the prevailing charge for cataract surgery with intraocular lens implantation.

4. New Physicians

The conference agreement sets the customary charge for new physicians at 80 percent of the prevailing charge. The provision does not apply to primary care services or to services furnished in rural health manpower shortage areas.

5. Anesthesia/Radiology

The conference agreement reduces payments to anesthesiologists for concurrent supervision of certified registered nurse anesthetists. It establishes a fee schedule for radiology services provided by board-certified and board-eligible radiologists or by physicians whose charges for radiologic services account for 50 percent or more of their Medicare charges.

6. Clinical Labs

The conference agreement makes the following changes to clinical laboratory provisions. It eliminates the differential between hospital outpatient labs and independent labs except for sole community hospitals; reduces prevailing charges for automated tests and tests subject to the lowest charge provision (except for cytopathology tests); revises the calculation of payment ceilings; establishes intermediate sanctions for labs which no longer substantially meet the conditions of participation for clinical laboratories; and provides for treatment of high-volume physician office labs as independent labs.

7. Durable Medical Equipment

The conference agreement establishes a 1-year freeze on durable medical equipment (DME) payment screens effective January 1, 1988, at the levels in effect on December 31, 1987. Beginning in 1989 a new payment mechanism, based on fee schedules, is established for durable medical equipment, prosthetic devices, orthotics, and prosthetics.

8. Payments to Hospital Outpatient Departments for Radiology

The conference agreement contains a limit on aggregate payments for hospital outpatient radiology departments.

9. Coinsurance for Ambulatory Surgery

The conference agreement does not include an increase in the Part B deductible. It does include restoration of beneficiary cost sharing for physician services provided in ambulatory surgical centers.

10. Part B Premium

The conference agreement extends for one year through calendar year 1989 the current 25 percent payment provision.

11. Influenza

The conference agreement directs the Secretary to conduct a major demonstration project to evaluate the cost effectiveness of providing influenza vaccines to aged Medicare beneficiaries.

12. Mental Health

The conference agreement increases the maximum payment for mental health services to $450 in 1988 and $1,100 in 1989.

D. Medicare and Medicaid Nursing Home Standards Reform

1. Nurse Staffing

The conference agreement retains Medicare's current law nurse staffing and registered nurse requirements and waiver provisions applying to the RN requirement. For Medicaid, the conference agreement requires as of October 1, 1990, that all SNFs and ICFs, in urban and rural areas, provide 24-hour licensed practical nurse care seven days a week, with at least one RN employed seven days a week, eight hours a day. The conference agreement authorizes States to waive the RN and LPN requirements if (1) the institution demonstrates to the satisfaction of the State that it has been unable, despite diligent efforts (including offering wages at the prevailing rates at other nursing facilities), to recruit appropriate personnel, and (2) the State determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the institution. The conference agreement also authorizes the Secretary to exercise States' authority to grant such waivers if the Secretary finds, based on a clear pattern and practice of allowing waivers in the absence of diligent efforts, that a State had abused its discretion.

2. Social Workers

The conference agreement requires facilities with more than 120 beds to employ full-time at least one social worker (with at least a bachelor's degree in social work or similar professional qualifications).

3. Nurse Aide Training

The conference agreement requires that the Secretary's standards for nurse aide training include a minimum of 75 hours of initial training.

4. Activities Program Professionals

The conference agreement requires that the facility's on-going program of activities be directed by a qualified professional.

5. Transfer and Discharge Requirements

The conference agreement applies transfer and discharge requirements to all transfers and discharges.

6. Enforcement

The conference agreement provides for intermediate sanctions to be imposed only by the Secretary.

E. Peer Review Organization Provisions

The conference agreement authorizes 3-year PRO contract periods with staggered expiration dates; prohibits PROs from publicizing payment denials without first offering the provider or practitioner prior notification and opportunity for discussion; requires publication in the Federal Register of specified information on PRO contracts; encourages competition for contracts held by out-of-state PROs which are subject to renewal; prohibits physicians, in the case of assigned claims, from billing Medicare beneficiaries for payments denied on substandard quality grounds; requires PROs, in establishing review standards, to take into account the special problems associated with delivering care in remote rural areas, the availability of service alternatives to inpatient hospitalization, and social factors that could adversely affect the safety or effectiveness of outpatient treatment; requires PROs to perform substantial on-site review in 20% of the rural hospitals in the PROs' areas; requires PROs to meet several times each year with hospital medical and administrative staff about PRO review; requires PROs to determine whether health maintenance organizations or competitive medical plan

enrollees have adequate access to health care services, and to require beneficiary outreach programs; requires PROs to encourage initial PRO review of psychiatric and physical rehabilitation services to be made by physicians with corresponding specialties; requires the Secretary to establish demonstration projects on instruction and oversight through video communications; entitles a provider or practitioner excluded from the Medicare program to a hearing before an administrative law judge; and requires the Secretary to report to Congress on improving procedures for imposing sanctions.

IV. PROVISIONS RELATING TO THE CUSTOMS SERVICE AND OTHER TRADE AGENCIES

A. Customs Service User Fees

The conference agreement continues the ad valorem user fee level at 0.17 percent for fiscal year 1988 and continues the ceiling at 0.17 percent in future years. This fee applies to formal entries of merchandise imported for consumption.

The conference agreement also 1) extends the expiration date for one additional year, until September 30, 1990; 2) clarifies the treatment of fees as offsetting expenditures; 3) clarifies that fees are to be deposited in the same dedicated account; 4) precludes Customs from assessing an annual fee on operators of foreign trade zones and customs bonded warehouses; 5) modifies the schedule 8 exemption; 6) requires customs services to be "adequately provided" for the clearance or preclearance of passengers and vehicles; 7) clarifies that user fees designated to reimburse an appropriation for overtime shall be reimbursed directly without being subject to apportionment; 8) requires a GAO study of the CES program and suspension of current CES operations at airports; and 9) authorizes the refund of certain user fees.

B. International Trade Commission Authorization of Appropriations

The conference agreement provides a fiscal year 1988 authorization of $35,386,000.

C. Customs Service Authorization of Appropriations

The conference agreement provides a fiscal year 1988 authorization of $1,081,501,000.

The conference agreement also requires that the Customs Service notify Congress 180 days in advance of any

action which would result in a significant reduction in force of employees or reduction in hours of operation, elimination or relocation of any office, elimination of any port of entry, or reduction in the number of employees assigned to an office or port of entry. It further establishes in lieu of the existing user fee advisory committee a new private sector advisory committee.

D. U.S. Trade Representative

The conference agreement provides a fiscal year 1988 authorization of $15,172,000.

V. PBGC AND PENSION FUNDING

A. Minimum Funding Standards and Deductions

The conference agreement imposes new minimum funding standards on all single-employer defined benefit pension plans. The stricter funding standards are designed primarily to apply to currently underfunded pension plans. The agreement further specifies that: estimated contributions to plans would be required on a quarterly basis; the liability for contributions would be extended to an employer's entire controlled group; the availability of funding waivers would be restricted; the amortization period for unfunded liabilities would be shortened; experience gains and losses, and changes in plan assumptions would be more rapidly amortized; and, plan actuarial assumptions must be individually reasonable.

B. Employer Access to Plan Assets

The conference agreement would modify present law rules applicable to a determination of the extent to which excess assets in an overfunded pension plan are attributable to earnings on employee contributions. Further, rules are established governing the timing of plan amendments providing for an employer reversion.

C. Treatment of Plan Terminations

The conference agreement increases the employer's liability to the participants to the full amount of benefit liabilities. In addition the employer's liability to the PBGC is increased to the full amount of unfunded guaranteed benefits. In addition, the agreement increases the benefits that must be paid in a standard plan termination. In cases of distress termination the new criteria are established for use by the courts during a reorganization. New security and lien rules are now applicable to underfunded plans.

D. PBGC Premiums

The conference agreement increases the annual per-participant premium charged for single-employer defined benefit plans by the PBGC from $8.50 to $16.00. In addition, the agreement imposes a variable rate, risk-related premium on an employer who maintains an underfunded pension plan. The amount of the additional premium is $6.00 per $1,000 of unfunded vested liability. However, when added to the base premium, it can not exceed $50 per participant. In addition, the maximum premium is reduced for 5 years by $3 for each year preceding the effective date for which the employer made the maximum deductible contribution to the plan.

E. Miscellaneous Provisions

The conference agreement provides that notification be given to employees when certain actions regarding the pension plan are taken. Also, effective for plans established after December 17, 1987, in an arrangement which consists of a defined benefit plan and an individual account plan, where the benefits from the individual account plan are taken in account in determining the benefits payable under the defined benefit plan, the arrangement will be treated as a single plan for purposes of the 10 percent limit on a plan's investments in the plan sponsor's securities.

VI. PROVISIONS RELATING TO DEBT MANAGEMENT

A. Repeal Limitation on Long-Term Bonds

The conference agreement increases the amount of long-term bonds which may be issued under the exception to the 4-1/4 percent limitation on the interest rates paid on such bonds by $20 billion, to a total of $270 billion.

B. Trust Funds and Other Federal Funds Made Whole

The conference agreement requires that the Secretary of the Treasury make the necessary adjustments of investments and interest payments on behalf of all federal trust funds, demand deposit SLGS, and all other federal funds denied financial transactions during a period when sufficient debt limit authority did not exist to allow such transactions, retroactive from the date of enactment to July 18, 1987.

The authority to make such adjustments does not apply to a future debt issuance suspension period.

VII. DEBT COLLECTION

Extension of Program for IRS Collection of Nontax Debts Owed to Federal Agencies

The conference agreement extends the tax refund offset program for six months (i.e., through June 30, 1988). In addition, the agreement expands the program so that it applies to debts owed to all Federal agencies, and it applies to debts owed by either individuals or corporations.

VIII. VACCINE INJURY COMPENSATION TRUST FUND

Excise Tax to Fund the Vaccine Injury Compensation Trust Fund

The conference agreement imposes a per-dose excise tax on the sale of commonly prescribed vaccines at a rate of $4.56 on DPT, $4.44 on MMR, $0.29 on polio, and $0.06 on diptheria-tetanus, effective for vaccines sold after December 31, 1987. An amount equivalent to the net revenue raised by this tax is to be deposited in a new Vaccine Injury Compensation Trust Fund, used to compensate injuries from vaccines administered after September 30, 1987, and before the termination of the program. The agreement also places new restrictions on the eligibility for compensation.

IX. INDIVIDUAL TAX PROVISIONS

A. Income Tax Provision

1. Limitations on deduction for mortgage interest

The Conference Agreement would limit the interest deduction for debt to acquire or substantially improve a principal residence or second residence to debt of $1 million, plus up to $100,000 of other debt secured by a principal or secondary residence. The taxpayer would **not** be required to use the home equity loan debt to pay for educational or medical expenses.

2. Child and dependent care credit

The Conference Agreement would deny eligibility of overnight camp expenses for the child and dependent care credit.

3. Exemption of mutual fund shareholder expenses from 2% floor

Beginning in 1987, miscellaneous itemized deductions generally are allowable only to the extent they exceed 2% of the taxpayer's adjusted gross income. The Conference Agreement would delay for 1 year, until taxable years beginning after December 31, 1987, the application of the 2% floor to indirect deductions with respect to publicly offered mutual funds.

B. Employee Benefits: Limitation on taxable benefit option under cafeteria plans

The Conference Agreement would not change present law.

C. Limitation on Nonrecognition for Like-Kind Exchanges (tax swaps) of Real Property

The Conference Agreement would not change present law.

X. BUSINESS TAX PROVISIONS

A. Accounting Provisions

1. Vacation Pay Reserves

The Conference Agreement would repeal deductions for additions to vacation pay reserves. Existing reserves are taken into income over a four-year period.

2. Completed contract method

The Conference Agreement would require that 70% of income from long-term contracts be reported as the contract is completed (under the percentage of completion method). 30% of the income would be deferred until completion. Under present law, 40% of income from the contract is reported under the percentage of completion method.

3. Treatment of past service pension costs under uniform capitalization rules

The Conference Agreement would apply the uniform capitalization rules to past service pension costs and apply the rules to long-term contracts.

4. Interest on debt used to purchase or carry tax-exempt installment obligations

The Conference Agreement would not change present law.

5. Installment sales rules

The Conference Agreement would repeal use of the installment sale method for dealers. Nondealers would be allowed use the installment method for sales below $5 million each year. With respect to nondealer installment obligations exceeding $5 million, interest is payable annually on the amount of deferred tax attributable to the use of the installment method. Also, for nondealers the installment method would be used in determining alternative minimum taxable income. Current law would continue to apply to timeshares and residential lots.

6. Below-market loans of Continuing-care facilities

The Conference Agreement would not change present law.

7. Current accrual of market discount on bonds

The Conference Agreement would not change present law.

8. Accrual accounting for certain farm corporations

Family-owned farms with gross receipts in excess of $25 million would be required to use the accrual method of accounting. Income attributable to the

prior use of the cash method of accounting would be put into a suspense account which would be taken into income when the entity ceases to be a family corporation, is sold outside the family group, or when the gross receipts of the entity decline (to the extent of the decline).

9. Amortization of customer based intangibles

The Conference Agreement would not change present law.

10. Election of taxable year

The Conference Agreement would provide an election for a partnership, S corporation or personal service corporation that is otherwise required to change its taxable year to retain the taxable year currently used by the partnership, S corporation or personal service corporation. An election also would be provided for such entities to adopt or change to taxable years with limited deferral periods, which would be the lesser of the deferral in the year currently in use, or 3 months.

An electing partnership and an electing S corporation would be required to make a payment approximately equal to the tax on the deferral. An electing personal service corporation would be limited in the amount of deductions it can take for payments to employee-owners unless certain minimum distributions are made to employer-owners before the end of the calendar year.

B. Partnership Provisions

1. Taxation of Master Limited Partnerships as corporations

The Conference Agreement provides that certain publicly traded partnerships would be taxed as corporations. Existing partnerships and partnerships filing with certain Federal or State agencies on or before December 17, 1987, would not be taxed as corporations until January 1, 1997.

2. Treatment of publicly traded partnerships under the passive loss rule

The Conference Agreement would treat net income from publicly traded partnerships (that are not treated as corporations) as portfolio income rather than passive income for purposes of the passive loss rules, except in the case of rehabilitation and

low-income housing credits.

3. Treatment of publicly traded partnerships for unrelated business income tax

The Conference Agreement would subject income from publicly traded partnerships to the unrelated business income tax.

C. Corporate Provisions

1. Computation of earnings and profits for purposes of intercorporate dividends and stock basis adjustments (overruling of Woods Investment Co. case)

The Conference Agreement would overrule the Woods Investment Co. case and provide that in determining its gain or loss on disposition of a subsidiary, the parent company's gain is not reduced by certain adjustments the subsidiary has made to the subsidiary's earnings and profits.

Dispositions pursuant to a written binding contract on or before December 15, 1987, or pursuant to a governmental order, a letter of intent or preliminary agreement, or a stock acquisition agreement, on or before December 15, 1987, will not be affected by the change provided in each case that the disposition is completed before January 1, 1989.

2. Limitation on consolidated return pass-through

The Conference Agreement would not change present law.

3. Limitations on the intercorporate dividends received deduction

The Conference Agreement would not change present law.

4. Limitations on interest deductions for the costs of acquiring corporations

The Conference Agreement would not change present law.

5. Reduction of tax avoidance in certain corporate dispositions ("Mirror" subsidiary transactions)

The Conference agreement would make changes in the rules regarding liquidations to insure that certain transactions which are designed to dispose of subsidiaries would result in the appropriate tax on the unrealized gains of such subsidiary.

In general, the provisions would not apply to certain affiliated groups of corporations existing before December 15, 1987, or certain corporations becoming affiliated before January 1, 1988 pursuant to a binding contract or tender offer in effect on December 15, 1987, if the distribution or certain transfers are made before January 1, 1993.

6. Special rules for hostile corporate acquisitions

a. Greenmail

The Conference Agreement would impose a nondeductible 50% excise tax on "greenmail" (gain received from a corporation's repurchase of stock from a shareholder who held the stock for less than 2 years and who made or threatened a public tender offer for the stock of the corporation). The tax would not apply if the redemption of stock is made on the same terms to all shareholders.

The excise tax would not apply to stock repurchased under a binding agreement to redeem stock entered into prior to December 16, 1987.

b. Imposition of a corporate level tax on hostile takeovers

The Conference Agreement would not change present law.

c. Limitation on interest deductions for debt incurred in connection with the purchase of 20% of the stock of a corporation under a hostile tender offer

The Conference Agreement would not change present law.

7. Limitations on net operating loss carryforwards

The Conference Agreement would limit the net operating loss carryforwards of a company when a majority owner of the company claims a worthless stock deduction. The Agreement also would impose limitations on the use of a company's built-in depreciation when there is an ownership change. In addition, loss corporations would be limited in the use of their losses to shelter built-in gains of an acquired company.

8. LIFO recapture on conversion from C corporation to S corporation

The Conference Agreement would provide that LIFO reserves be recaptured over a four-year period on conversion from C corporation status to S corporation status.

The recapture provision would apply to S corporation elections made after December 17, 1987, unless on or before December 17, 1987, either of the following events occurred: (1) a Board of Directors' resolution to elect S status or (2) the filing of an IRS ruling request indicating an intent to elect S status; as long as the S-election is made before January 1, 1989.

9. Denial of graduated tax rates for personal service corporations

The Conference Agreement would deny the benefit of lower graduated corporate tax rates for personal service corporations.

10. Regulated Investment Companies (Mutual Funds)

The distribution required of a mutual fund to avoid a penalty excise tax would be increased from 90% to 98% of capital gain net income.

D. Corporate Minimum Tax

The Conference Agreement would not change present law.

E. Pensions: Modify Full-Funding Limitation

The Conference Agreement would deny deductions to defined benefit pension plans if the plan's assets exceed 150% of the plan's termination liability. The Treasury is required to issue regulation by August 15, 1988, adjusting the 150% figure in a budget-neutral manner, to reflect the age and service of the plan participants.

F. Foreign Tax Provisions

1. Treatment of South African income

The Conference Agreement would deny foreign tax credits and deferral of U.S. tax on income of a U.S.-owned corporation with respect to South African income.

2. Imported property income (runaway plants)

The Conference Agreement would not change present law.

G. Insurance Provisions

1. Interest rate on tax reserves of life insurance companies

The Conference Agreement provides that the interest rate to be used in determining the amount of the deduction for increases in life insurance reserves for any contract is the greater of the applicable Federal rate (AFR) or the prevailing State assumed rate. A company may make a one-time election to adjust the rate every five years. Also, if the AFR changes by less than 50 basis points, no adjustment will be made.

2. Treatment of investment income of foreign insurance companies

The Conference Agreement would amend a current law provision taxing foreign insurance companies on a portion of their U.S. investment income.

3. Treatment of mutual life insurance company policyholder dividends for the alternative minimum tax book preference

The Conference Agreement would provide generally that, for purposes of the book income preference, mutual life insurance companies may not reduce book income for policyholder dividends paid or accrued during the year by more than the amount allowable in computing life insurance company taxable income. The Treasury Department would be given regulatory authority to require certain adjustments in the calculations for both stock and mutual insurance companies.

4. Treatment of certain insurance syndicates (Lloyds of London)

The Conference Agreement would not require corporate level tax on certain United Kingdom insurance syndicates doing business in the United States. However, the bill would require the Treasury Department to study this issue and renegotiate certain closing agreements exempting the income of these syndicates from U.S. tax.

H. Taxation of Net Investment Income of Trade Associations

The Conference Agreement would not change present law.

XI. ESTIMATED TAX PROVISIONS

The Conference Agreement would provide a speed-up of corporate estimated tax payments, but to a lesser degree than provided under the House bill.

XII. ESTATE AND GIFT TAXES

A. Extension of 1987 tax rates

The Conference Agreement would extend the present law top estate tax rate of 55% for five years. This rate applies to estates of over $3 million in value.

B. Graduated rates and unified credit

The Conference Agreement would phase out the benefit of the lower graduated estate and gift tax rates and the unified estate and gift tax credit for estates in excess of $10 million in value.

C. State death tax credit

The Conference Agreement would not change present law.

D. Estate tax deduction for sales to an ESOP

The Conference Agreement corrects an error in the Tax Reform Act of 1986 relating to estate tax relief through the sale of employer securities to an employee stock ownership plan (ESOP).

E. Estate freezes and minority discounts for estate and gift tax valuation purposes

The Conference Agreement generally would limit estate and gift tax benefits from estate freezes where a person holding a substantial interest in an enterprise transfers a disproportionate share of the appreciation and retains the possession or enjoyment of the right to income from the property. The Conference Agreement would not change present law with regard to minority discounts.

XIII. EXCISE TAXES

A. Telephone excise tax

The Conference Agreement provides a three-year extension of the present 3% telephone excise tax.

B. Highway excise tax exemptions for private buses

The Conference Agreement would not change present law.

C. Collection of excise tax on nongasoline fuels

The Conference Agreement would impose nongasoline motor fuel excise taxes at the wholesale level (rather than the retail level). Discretionary authority would be provided to the Treasury to exempt sales of (a) diesel fuel for use in trains; (b) aviation fuel for use in commercial aviation; and (c) sales to State and local governments.

D. Coal Excise Tax

The termination date for the present-law coal excise tax rate would be extended from January 1, 1996, to the earlier of (1) January 1, 2014, or (2) the date the Black Lung Disability Trust Fund achieves solvency.

XIV. EMPLOYMENT TAXES

A. Railroad retirement tax provisions

The Conference Agreement would increase the overall Tier II tax by 2 percentage points. Authority for general fund transfers to the railroad retirement account would be extended for one year until September 30, 1989.

B. FUTA tax extension

The Conference Agreement would extend the 0.2 percentage point surtax for three years.

XV. OTHER REVENUE-INCREASE PROVISIONS

A. Application of Targeted Jobs Tax Credit

The Conference Agreement would deny Targeted Jobs Tax Credit for hiring strikebreakers.

B. Tax-Exempt Bonds for purchase of Existing Output Facilities

The Conference Agreement would subject tax-exempt bonds for the purchase of facilities from private utilities to the private activity volume cap with exceptions for facilities to serve areas presently served by public power agencies and areas annexed by governments served by public power agencies.

C. Tax-Exempt Bonds Issued by Indian Tribes

The Conference Agreement would limit the issuance of tax-exempt bonds by Indian tribal governments to governmental activities customarily financed by State and

local governments. An exception is provided for facilities of tribal enterprises located on reservations and providing significant Indian employment.

XVI. OTHER ITEM

A. Lobby Provisions

The Conference Agreement would require tax-exempt organizations to meet certain requirements regarding the disclosure of the nondeductibility of contributions and certain other information, public inspection of exemption application and annual information returns, and additional information on certain annual information returns. The Conference Agreement would impose penalties for noncompliance. With regard to political campaign activities and lobbying activities of section 501(c)(3) organizations, the Conference Agreement would provide a clarification of prohibited political campaign activities, change the status of an organization after loss of exemption of a 501(c)(3) organization because of political campaign activities, provide excise taxes on political expenditures of charitable organizations, provide additional enforcement authority in the case of flagrant political expenditures by charitable organizations, and provide excise taxes on lobbying expenditures, where exemption has been revoked, of certain charitable organizations.

DEFICIT REDUCTION IMPACT

		Conference Agreement (by fiscal year, in millions of dollars)			
		1988	1989	1990	3-year total
A. Spending Provisions:					
I.	Social Security (OASDI)	11	54	8	73
II.	Public Assistance and Unemployment	26	73	69	170
III.	Medicare	-2,093	-3,841	-3,888	-9,822
IV.	Title XX	48	2	0	50
V.	Vaccine Compensation (outlays)	0	*	94	94
VI.	Debt Collection	-270	0	0	-270
VII.	PBGC Premium Increase	-400	-400	-410	-1,210
	Total Spending Reduction	-2,678	-4,112	-4,127	-10,915
B. User Fees		-335	-318	-757	-1,410
C. Revenue Provisions		-9,078	-14,097	-15,068	-38,243
	Total Deficit Reduction	-12,091	-18,527	-19,952	-50,568

Sign (-) denotes impact upon deficit

ERRATA

The following changes should be made to Ways and Means Committee print 100-27, "Summary of Conference Agreement on Reconciliation Provisions Within the Jurisdiction of the Committee on Ways and Means":

Page 14, 2d paragraph under item 2, the last sentence should be deleted and the following inserted:

> The agreement provides incentive payments for primary care services furnished by physicians in a class I or II rural health manpower shortage area effective January 1, 1989. Urban health manpower shortage areas would be added in 1991.

Page 15, paragraph under item 6, "Clinical Labs," should read as follows:

> The conference agreement makes the following changes to clinical laboratory provisions. There would be no fee schedule update for 1988. It eliminates the differential between hospital outpatient labs and independent labs except for sole community hospitals; reduces fee schedule allowances for automated tests and tests subject to the lowest charge provision (except for cytopathology tests) by 8.3 percent; revises the calculation of payment ceilings; establishes intermediate sanctions for labs which no longer substantially meet the conditions of participation for clinical laboratories; and requires quality certification of high-volume physician office labs.

Page 17, under item 6, "Enforcement," the paragraph should read as follows:

> The conference agreement provides for intermediate sanctions to be imposed only by the Secretary under Medicare. Under Medicaid, there are State and Federal sanctions.

H782-55